

DOCKET SECTION

PRESIDING OFFICER'S
RULING NO. R97-1/68

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268

RECEIVED
NOV 21 9 56 AM '97
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes

Docket No. R97-1

PRESIDING OFFICER'S RULING GRANTING MOTIONS DESIGNATING EVIDENCE FROM PRIOR CASES

(November 21, 1997)

Pursuant to Special Rule of Practice 1.D., several participants have filed motions seeking to designate evidence from prior cases into the record of this proceeding. These include Douglas F. Carlson (Carlson), The McGraw-Hill Companies (McGraw-Hill), the National Newspaper Association (NNA) and, acting jointly, the American Bankers Association (ABA), the Edison Electric Institute (EEI) and the National Association of Presort Mailers (NAPM).¹ No oppositions to the proposed designations have been filed.

Brief review of matters addressed in the proposed designations. Carlson seeks designation of the response provided by Postal Service witness Patelunas, in Docket No. MC96-3, to OCA/USPS-T5-11 and of the responses provided by Postal Service witness Needham, in the same proceeding, to OCA/USPS-T7-18 and 19. Carlson asserts that witness Patelunas's response (which discusses reasons for a differential between processing costs for stamped cards and private post cards) is relevant to the

¹ See October 20, 1997 Douglas F. Carlson Motion to Designate Evidence from Docket No. MC96-3; October 20, 1997 The McGraw-Hill Companies' Motion That Evidence Filed in Another Proceeding Be Entered into the Record in this Proceeding; October 20, 1997 Motion of the National Newspaper Association for Designation of Testimony from [Docket No.] R94-1 and Request to File Out of Time; and October 20, 1997 Joint Motion of ABA, EEI and NAPM.

fairness and equity of the Service's proposed two-cent fee for stamped cards in this case. Similarly, he claims that Needham's responses (which address various delivery arrangements for Commercial Mail Receiving Agencies (CMRAs) are relevant to the Service's request for a fee increase in post office boxes, since the proposal is based, at least in part, on a comparison between CRMA and Postal Service fees.

McGraw-Hill seeks the designation of Postal Service witness Bradley's response to OCA/USPS-T4-9 (including contract provisions) in Docket No. MC97-2. In support of its request, McGraw-Hill notes that Bradley has relied on that response in this proceeding. NNA moves for designation, in its entirety, of Postal Service witness Degen's supplemental testimony in Docket No. R94-1 (USPS-T-12). NNA's request is based on the assertion that witness Degen relies on that material, in this case, as background for the current methodology for In-Office Cost System (IOCS) tally verification.

ABA, EEI and NAPM move for designation of the responses of Postal Service witness Pajunas, in Docket No. MC95-1, to NAPM/USPS-T2-30 and 31, 34 and 35, and 37 and 38. They assert that Postal Service witness Hatfield's interrogatory responses in this proceeding indicate that Pajunas's testimony is "the best and most recent evidence on the very important issue of the costs of the USPS for forwarding of undeliverable as addressed FCLM [First-Class Letter Mail]." Joint Motion of ABA, EEI and NAPM at 2.

Discussion. In Attachment C of P.O. Ruling MC95-1/1 (issued April 12, 1995), I noted that the practice of allowing designation of material from prior proceedings was premised on the expectation that it would foster convenience, expedition and efficiency. I also reviewed several substantive and procedural guidelines for participants to follow. Among other things, these guidelines generally favor factual material over opinion evidence, foreclose stale evidence (with staleness sometimes presumed for material from proceedings more than one removed), preclude re-litigating old issues, and

discourage designation of library references or of a witness's testimony in its entirety.² The guidelines also call for a full and timely explanation of why the material is being designated and how it will advance the presentation of the participant requesting designation. See *id.*, Appendix D at 2-3.

Having reviewed the motions filed by participants, I find that, with the exception of the designation of witness Degen's supplemental testimony, the designations generally satisfy the established guidelines. Accordingly, the material identified in the respective motions of Carlson, McGraw-Hill and ABA, EEI and NAPM will be entered into the record of this proceeding.

Acceptance of Degen's Docket No. R94-1 testimony is questionable under a strict interpretation of the guideline discouraging designation of the testimony of a witness in its entirety. Moreover, at more than 36 pages, it is also generally unsuitable due to its length. However, it also appears that the subject matter of the testimony (covering the results of tally classification work) does not readily lend itself to being condensed or excerpted. This consideration, plus the lack of any objection to its designation, influences me to grant NNA's request.

It is my intention that the material that has been designated by the movants be included in a volume of transcript compiled following the appearance of the witnesses presenting supplemental testimony on behalf of the Postal Service.

RULING

1. The October 20, 1997 Douglas F. Carlson Motion to Designate Evidence from Docket No. MC96-3 is granted.

2. The October 20, 1997 Joint Motion of American Bankers Association, Edison Electric Institute and National Association of Presort Mailers to Designate Responses from [Docket No. MC95-1] is granted.

² For this proceeding, Docket No. R94-1 will not be deemed stale.

3. The October 20, 1997 Motion of the McGraw-Hill Companies That Evidence Filed in Another Proceeding [Docket No. MC97-2] Be Entered into the Record in this Proceeding is granted.

4. With respect to the filings by the National Newspaper Association (NNA),
- a. the October 20, 1997 Motion of the NNA for Designation of [Supplemental] Testimony from [Docket No.] R94-1 is granted; and
 - b. NNA's accompanying Request to File [Referenced Motion] Out of Time is deemed moot.

A handwritten signature in black ink, appearing to read "Edward J. Gleiman", with a long horizontal flourish extending to the right.

Edward J. Gleiman
Presiding Officer